

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Lifeline and Link Up	)	WC Docket No. 11-42
Reform and Modernization	)	
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

**REQUEST FOR CLARIFICATION AND DECLARATORY RELIEF**

On February 22, 2012, TracFone Wireless, Inc. (“TracFone”) filed with the Commission an Emergency Petition for Declaratory Ruling and for Interim Relief. That petition was occasioned by the Puerto Rico Telecommunications Regulatory Board’s (“Board”) recent directives to TracFone and to other Eligible Telecommunications Carriers (“ETCs”) to de-enroll from their federal Lifeline programs all Puerto Rico Lifeline customers identified by the Board as “duplicates,” *i.e.*, persons enrolled in multiple Lifeline programs, and to prohibit such de-enrolled consumers from obtaining any Lifeline-supported service for specified periods, in violation of Section 54.405(e) of the Commission’s rules and the policies articulated by the Commission in its June 21 Order.<sup>1</sup> By public notice issued February 27, 2012, the Commission invited comment on that Emergency Petition.<sup>2</sup>

TracFone and other ETCs each received two directives issued by the Board -- one dated January 30, 2012 (based on Social Security Numbers), the other dated February 7, 2012 (based on residential addresses). Those directives instructed ETCs to de-enroll all duplicates on March

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<sup>1</sup> Lifeline and Link Up Reform and Modernization, et al, 26 FCC Rcd 9022 (2011) (“June 21 Order”).

<sup>2</sup> Public Notice - Comment Sought on TracFone Wireless, Inc. Emergency Petition for Declaratory Ruling and Interim Relief, DA 12-295, released February 27, 2012.

1, 2012, and April 1, 2012 respectively, and that such de-enrolled duplicates would be prohibited from receiving Lifeline benefits for prescribed periods of time.<sup>3</sup>

Several parties, including the Board, filed comments on the Emergency Petition and the Board has announced various changes to its policies and procedures governing Lifeline in Puerto Rico, including changes regarding de-enrollment and re-enrollment. Attached to the Board's March 9 comments is a resolution and order issued by the Board on March 7, 2012.<sup>4</sup> In the March 7 Order, the Board revised its prior debarment of de-enrolled duplicates from receiving any Lifeline-supported service for four months by allowing such de-enrolled customers to re-enroll without waiting four months. However, such de-enrolled customers may only re-enroll in the Lifeline program of the ETC to whose service the Lifeline "subsidy was first applied." In other words, de-enrolled Lifeline customers could avoid the four month No Lifeline Service penalty only if they re-enroll in the Lifeline program of the ETC from whom they obtained Lifeline service first -- in virtually all instances, the incumbent wireline local exchange carrier. Under the Board's requirements set forth in the March 7 Order, consumers de-enrolled on March 1 would lose their right to select their preferred Lifeline provider. Instead, that selection would be made for them by the Board.

Moreover, the March 7 Order expressly forbade ETCs from sharing information about the Board's changed policy with their de-enrolled customers. In the words of the Board, "[t]he Board will be the only entity authorized to announce said resolution to the consumers, by the

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<sup>3</sup> Initially such de-enrolled duplicates were to be barred from receiving Lifeline support for one year. However, in a March 7, 2012 resolution and order, the Board revised that debarment period to four months. Subsequent to the filing of TracFone's Emergency Petition, the Board has issued a third de-enrollment directive on March 14. That directive instructs ETCs to de-enroll additional Lifeline customers on May 1, 2012. The stated reason for the May 1 de-enrollments is failure to provide certain information, *i.e.*, second last names and full 9 digit Social Security numbers.

<sup>4</sup> In re: Universal Service Fund, Lifeline/Link Up, (Resolution and Order) Case No. JRT-2001-SU-0003, issued March 7, 2012 ("March 7 Order").

means it deems appropriate.”<sup>5</sup> By its terms, the Board’s March 7 Order, including the announced changes regarding re-enrollment by de-enrolled duplicates and permissible communications with such de-enrolled consumers was applicable only those consumers de-enrolled from all Lifeline-supported services by March 1, 2012 in accordance with the Board’s January 30, 2012 directive. The March 7 Order is not applicable to those de-enrollments which occurred on April 1 pursuant to the Board’s February 7, 2012 directive.

By this request, TracFone hereby brings to the Commission’s attention more recent developments which raise further questions about the Board’s treatment of Lifeline consumers it labels as “duplicates.” Specifically, the Board now has sent notices to consumers who were de-enrolled on March 1. Those notices are dated March 26, 2012 and are signed by Sandra E. Torres Lopez, President, and by Ciorah J. Montes Gierboni, Secretary. Those March 26 notices appear to modify and contradict prior Board orders and directives. Attached to this request as Attachment A are copies of the Board’s March 26 notice in English and in Spanish.<sup>6</sup>

The Board’s March 26 notice states, in relevant part, that “. . . those who received the communication informing them that their subsidy service would be suspended by March 1, 2012, can immediately request, with the company of their preference, only one subsidy for wireline or wireless service per person, as long as they comply with the criteria for eligibility.” (emphasis added). In addition, the notice informs consumers de-enrolled on March 1 that “if your wireline or wireless provider does not inform you correctly, you may visit the Telecommunications Board of Puerto Rico offices personally or you may request information by sending a letter to [the Board]” (emphasis added).

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<sup>5</sup> *Id.*, at 2 (emphasis original).

<sup>6</sup> Although TracFone has obtained a copy of the March 26 notice, it does not know to whom those notices were sent. Specifically, it does not know whether the notices were sent to all consumers de-enrolled on March 1 or to only some consumers who were de-enrolled on March 1.

By indicating that consumers may now request immediate re-enrollment with the company of their preference, the Board's March 26 notice would appear to contradict the Board's March 7 Order which expressly limited re-enrollment to the Lifeline service of the ETC who served the customer first. Also, the notice's statement about contacting the Board if the consumer's wireline or wireless company does not inform the consumer correctly seems to suggest that wireline and wireless ETCs may communicate with their de-enrolled Lifeline customers. That too would contradict the March 7 Order which prohibited anyone except the Board from contacting de-enrolled consumers. TracFone is aware of no resolution and order issued by the Board which modifies the March 7 Order and does not know whether or not the March 26 notice signed by only one Board member reflects a valid and legally binding action of the Board. Accordingly, it has no way of determining whether it may lawfully rely upon that March 26 notice in operating its Lifeline program in Puerto Rico.

To the extent that the March 26 notice reflects a change in Board policy so as to allow each de-enrolled Lifeline customer to re-enroll immediately in the Lifeline program of his/her preferred ETC, that would be a positive development. So too would the Board's apparent recognition of ETCs' right to communicate with their de-enrolled customers -- a right which the Board purported to deny ETCs in its March 7 Order. However, the March 26 notice raises many questions which need to be clarified.

First, to what categories of de-enrolled Lifeline customers do the changes set forth in the March 26 notice apply? By its terms, the notice refers only to those consumers who were de-enrolled by March 1, 2012 (*i.e.*, those identified in the Board's January 30 letter). The notice does not reference either those consumers who were de-enrolled on April 1 as required by the Board's February 7 letter, or to those consumers subject to the March 14 letter from the Board who are to be de-enrolled by May 1. Those latter two categories appear to remain subject to the

Board's mandatory debarment period of either four months or one year. In addition, nothing to date issued by the Board indicates that those consumers who were de-enrolled on April 1 (as directed by the Board's February 7 letter) and those consumers who are to be de-enrolled on May 1 (as directed by the Board's March 14 letter) will be allowed to re-enroll either immediately, after four months, or at any other time, in the Lifeline program of any ETC other than the ETC who first provided the consumer with Lifeline-supported service.

Furthermore, TracFone brings to the Commission's attention the prefatory language in the second paragraph of the notice: "*For this and other reasons not attributable to consumers . . .*." What is not attributable to consumers? That consumers were enrolled in multiple Lifeline programs? The implication of this statement is that duplicate enrollment is attributable to someone else. Is the Board referring to ETCs? If so, which ETCs? Implicit in that statement is an assertion that ETCs, including TracFone, have done something improper in violation of law. That seems to be what the Board's notice is communicating to consumers. TracFone cannot comment on the conduct of any other ETCs, but it can represent to the Commission that on all occasions it has operated its Lifeline program in Puerto Rico and all other states where it is an ETC in compliance with all applicable laws, regulations and conditions of ETC designation. Indeed, TracFone's enrollment practices and procedures were presented to and described in detail to the Board during its 2010 ETC designation proceeding and those practices and procedures were approved by the Board.

Also, what is the legal status of the Board's March 26 notice to customers? It contradicts prior Board orders in two important respects -- it indicates that some de-enrolled Lifeline customers (*i.e.*, those who were de-enrolled on March 1 pursuant to the Board's January 30 de-enrollment directive) may re-enroll immediately in the Lifeline program of their preferred ETC; and it implies that ETCs may communicate information regarding re-enrollment to their de-

enrolled customers. Since this notice to customers contradicts requirements and prohibitions set forth in prior Board orders, including the March 7 Order, to what extent may TracFone or any other ETC rely upon the March 26 notice? Does a notice issued under the signature of the President of the Board which contradicts a prior resolution and order voted on and issued by the entire Board take precedence over the contradictory Board order? Nowhere has the Board provided any explanation for or answered these questions. Neither ETCs nor consumers should be left to guess which actions are official Board actions upon which they may rely.<sup>7</sup>

More importantly, what will happen to those duplicates? As suggested by the March 26 notice, ETCs may now re-enroll their March 1 de-enrolled customers and may contact their customers to invite them to re-enroll. If this is so, then it is probable that those duplicates will receive re-enrollment invitations from both ETCs with whom they had been enrolled prior to the March 1 de-enrollments. What processes, if any, does the Board have to prevent such duplicate enrollment from recurring?

On February 17, 2012 at an open meeting of the Board, TracFone presented a solution to the Board. It proposed that the Board utilize the Interim Duplicate Resolution Process (“IDRP”) established by the Commission in cooperation with ETCs and memorialized in the Commission’s June 21 Order. Pursuant to that process, duplicates would receive letters notifying them that they are enrolled in multiple Lifeline programs, that they are allowed one -- and only one -- Lifeline-supported service, and that they were being assigned to one of the ETCs to which they were enrolled. The consumers would then have 35 days to select the ETC other than that to which they had been assigned. Once the customer’s selection was made, the consumer would be de-enrolled from the Lifeline program of the ETC not chosen. That ETC would no longer receive

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<sup>7</sup> Given the Board’s stated intent to impose substantial monetary penalties for perceived violations of the Board’s Lifeline rules, neither TracFone nor any other ETC can afford to guess wrong.

Lifeline support for the de-enrolled customer. This process has worked well in the states where it has been used. Consumers are notified that they are enrolled in multiple Lifeline programs in violation of Commission rules, that have their choice of provider, and are prevented from remaining enrolled in multiple Lifeline programs. Unlike the Commission's IDR process, the process which seems to be contemplated by the Board's latest notice does not appear to have any safeguards to prevent duplicate enrollment recurrences. Indeed, the Board's failure to establish a duplicate de-enrollment process which contains safeguards to detect and prevent duplicate enrollment makes it appear that the Board's focus is on punishing ETCs and penalizing consumers rather than on preventing the occurrence of duplicate enrollment.

In considering this request for clarification and for declaratory relief, the Commission should be aware of yet another recent development. On April 2, 2012, the Board issued another resolution and order.<sup>8</sup> A copy of the April 2 Order and an English translation of that order are attached hereto as Attachment B. In the April 2 Order, the Board imposes monetary fines against various ETCs, including TracFone, for allegedly providing incorrect and incomplete customer information. The missing information which occasioned the Board's fines includes second last name<sup>9</sup> and full Social Security Number.<sup>10</sup> Moreover, in the April 2 Order, the Board directs

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<sup>8</sup> In re: Universal Service Fund, Lifeline/Link Up, Case No. JRT-2001-SU-003, issued April 2, 2012 ("April 2 Order").

<sup>9</sup> In Hispanic cultures, it is common for persons to have two last names -- one from their mother's family, and one from their father's family. In response to the Board's revised rule, TracFone now requires applicants for Lifeline service in Puerto Rico to provide two last names. It has also incurred significant expense to obtain second last name data for existing customers and has been partially successful in doing so. However, as TracFone has explained to the Board repeatedly, obtainment of second last name information for the entire existing Lifeline customer base is virtually impossible since most available databases do not include that data.

<sup>10</sup> The revised Lifeline rule promulgated by the Board on an emergency basis on October 21, 2011 requires consumers to provide full 9 digit Social Security Number information rather than last four digits as required by the Commission and by most other states. When TracFone was designated as an ETC in Puerto Rico and commenced Lifeline service, it was only required to obtain the last 4 digits of applicants' Social Security numbers. Although TracFone now requires

TracFone and all other ETCs either to produce the complete information for those customers by April 30 or be subject to additional penalties. As if that were not enough, by the April 2 Order, the Board threatens to revoke the ETC designation as well as operating authority of carriers who do not provide the required information for existing customers or de-enroll those customers.

Obtaining second last names and full nine digit Social Security numbers does nothing to enable any ETC to detect and prevent duplicate enrollment. At no time has the Board in any resolution and order or in any meeting with ETCs ever offered an explanation of what fraud prevention benefit, if any, obtaining second last name and full nine digit Social Security numbers would achieve. In the absence of any articulated reason for requiring such information, there appears to be no reason why the Board would require it other than to facilitate de-enrollment of thousands of qualified low-income Lifeline-eligible consumers and a trimming of the Commonwealth's Lifeline rolls.

TracFone has approximately 30,000 Lifeline customers in Puerto Rico who will be affected by the Board's April 2 Order. It will have to de-enroll all 30,000 of those customers or risk further sanctions, including revocation of ETC designation. Amazingly, the Board's stated reason for this draconian action is to limit disbursements from the Puerto Rico Universal Service Fund. TracFone does not receive support from the Puerto Rico fund. It has never asked for such support and has no plans to do so. Yet, it is being forced to de-enroll 30,000 qualified low-income households or lose ETC designation for the ostensible reason of saving money from the Puerto Rico fund from which it has never received a single dime!

Based on the facts described herein, the conclusion is inescapable: the Board's objective is to limit disbursement of money from the Puerto Rico fund to support Lifeline in Puerto Rico

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applicants for Lifeline service in Puerto Rico to provide full 9 digit numbers (and second last names), it is impossible for TracFone -- or any other ETC -- to obtain that information for existing customers.



without regard to the impact of those efforts on the availability of affordable telecommunications service to those low-income households who qualify for and are dependent on Lifeline support. In addition, the Board's "gotcha" strategy of promulgating unnecessary and unworkable rules, adopting and changing its positions on Lifeline eligibility, de-enrollment, and re-enrollment every few weeks and punishing those ETCs who provide service in good faith and do their best to comply with these unworkable, arbitrary and ever-shifting requirements accomplishes nothing except to limit, and perhaps ultimately eliminate, choices of Lifeline service in Puerto Rico. Moreover, if the Board's stated basis for this approach is to limit disbursements from the Puerto Rico USF, on what basis does it accomplish that objective by taking punitive actions against ETCs who take no money whatsoever from the Puerto Rico USF? The Board has never provided an answer to that question.<sup>11</sup>

### **CONCLUSION AND REQUEST FOR RELIEF**

As described herein and in prior filings, the Board, in its zeal to eliminate duplicate enrollment in Lifeline programs in Puerto Rico, has required that such duplicates be de-enrolled from all Lifeline-supported programs and has prohibited such de-enrolled duplicates from receiving any Lifeline-supported services for specified durations in violation of a codified Commission rule. Faced with a legal challenge to the lawfulness of those actions and objection from many parties,<sup>12</sup> the Board has on multiple occasions modified its treatment of duplicates -- or at least its treatment of some duplicates. As a result, there now appears to be one Board policy

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<sup>11</sup> Ironically, the Board's actions taken against TracFone undermine its stated goal of preserving Puerto Rico Universal Service Fund resources. Every Lifeline customer enrolled by TracFone is a customer who receives Lifeline benefits without any money being disbursed from the Puerto Rico fund.

<sup>12</sup> Comments objecting to the Board's punitive and discriminatory Lifeline de-enrollment policies were filed with the Commission by other ETCs -- T-Mobile USA, Inc., Sprint Nextel, PR Wireless, d/b/a Open Mobile, and Puerto Rico Telephone Company, and by consumer advocates including the National Association of State Utility Consumer Advocates and a broad-based coalition of consumer and low-income advocacy groups led by the National Consumer Law Center.

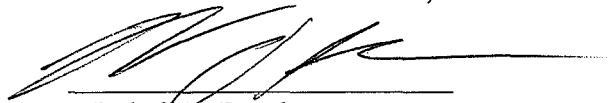
regarding those consumers who were de-enrolled on March 1, and a very different policy for those consumers who were de-enrolled on April 1 and who will be de-enrolled on May 1. Furthermore, there is even uncertainty as to what policies and requirements will govern those who were de-enrolled on March 1. Are those de-enrollments governed by the March 7 Order or by the contradictory March 26 notice?

Given this confusion and its resulting adverse impact on the availability of Lifeline service in Puerto Rico, TracFone respectfully requests that the Commission, in its capacity as the primary administrator of the federal Lifeline program, direct the Board to clarify what requirements governing de-enrollment of duplicates, subsequent re-enrollment of previously de-enrolled customers, and permissible communication between ETCs and consumers are applicable to all de-enrolled customers.

In addition, TracFone respectfully requests that the Commission issue a ruling declaring that all state policies, practices and procedures governing duplicate enrollment in Lifeline programs supported by the federal Universal Service Fund ensure that all consumers receive notification that 1) they may only receive one Lifeline-supported service, 2) that they will be de-enrolled from all except one such service, and 3) that they must be afforded a choice of which Lifeline-supported service to receive.

Respectfully submitted,

**TRACFONE WIRELESS, INC.**



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*Its Attorneys*

April 10, 2012

# **Attachment A**

# NOTICE

## Important information regarding LifeLine benefits

By the end of February 2012, telephone service companies announced to some of their customers that they would lose the Lifeline subsidy by March 1st 2012, because a duplicity of subsidy was identified, as per the information obtained by the Telecommunications Board directly from the telephone companies. The analysis of most of the claims presented before the Telecommunications Board by beneficiaries, reveal that a lack of information has impaired regarding the Lifeline subsidy. This has caused that many people have received more than one benefit, contrary to what is established by law and regulations related to Universal Service Fund.

For this and other reasons not attributable to consumers, on March 7, 2012, the Telecommunications Board of Puerto Rico issued a Resolution and Order, that leaves in suspense Rule 14.9 (a) of the Provisional Amendment to the Universal Service Resolution applicable to those persons identified as having more than one subsidy under their Social Security number. In consequence, those who received the communication informing them that their subsidy service would be suspended by March 1, 2012, can immediately request, with the company of their preference, only one subsidy for wireline or wireless service per person, as long as they comply with the criteria for eligibility.

If any doubts or questions should arise or if your wireline or wireless company provider does not inform you correctly, you may visit the Telecommunications Board of Puerto Rico offices personally or you may request information by sending a letter to:

500 Ave. Roberto H. Todd (Parada 18 Santurce)  
San Juan, Puerto Rico 00907

You can also receive information in our website: [www.jrtpr.pr.gov](http://www.jrtpr.pr.gov), or if you prefer you may contact us at the following phone numbers 787-722-8606 or 787-756-0804 ext. 3012.

In San Juan Puerto Rico today March 26, 2012

\_\_\_\_\_  
signature

Sandra E. Torres López  
President

\_\_\_\_\_  
signature

Ciorah J. Montes Gierbolini  
Secretaria

**Authorized by the States Election Committee: CEE-SA12**



**GOBIERNO DE PUERTO RICO  
JUNTA REGLAMENTADORA DE TELECOMUNICACIONES  
DE PUERTO RICO**

## AVISO

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### INFORMACIÓN IMPORTANTE SOBRE BENEFICIO LIFELINE

A finales de febrero de 2012, las compañías de servicios telefónicos informaron a varios de sus clientes que perderían el subsidio de *Lifeline* a **partir del 1<sup>ro</sup> de marzo de 2012**, por haberse identificado una duplicidad de subsidio, según la información suministrada por las propias compañías a la Junta Reglamentadora de Telecomunicaciones.

El examen de muchas de las reclamaciones presentadas ante la Junta por los ciudadanos, revelan que ha imperado una falta de información en cuanto al subsidio *Lifeline*. Esto ha llevado a que muchas personas recibieran más de un beneficio, contrario a lo establecido en las leyes y reglamentos relacionados con el Fondo de Servicio Universal.

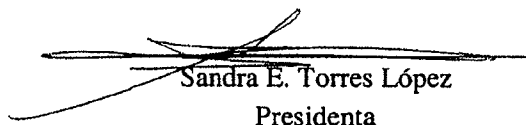
Por este y otros motivos, **no atribuibles a los consumidores**, el 7 de marzo de 2012, la Junta Reglamentadora de Telecomunicaciones de Puerto Rico emitió una *Resolución y Orden*, mediante la cual deja en suspenso la Regla 14.9 (a) de la *Enmienda Provisional al Reglamento sobre Servicio Universal* aplicable a las personas identificadas con subsidios duplicados bajo su seguro social. En consecuencia, **las personas que recibieron la comunicación suspendiéndole el subsidio para el 1ro de marzo de 2012, pueden volver a solicitar inmediatamente, con la compañía de preferencia, un solo subsidio para servicio alámbrico o inalámbrico por persona**, siempre y cuando cumpla con los criterios de elegibilidad.

De tener alguna duda o de entender que la compañía proveedora de servicios no le orienta adecuadamente, puede acudir a la Junta Reglamentadora de Telecomunicaciones de Puerto Rico, mediante visita personal o carta dirigida a nuestra dirección:

**500 Ave. Roberto H. Todd (Parada 18-Santurce)  
San Juan, Puerto Rico 00907-3941**

También puede orientarse a través de nuestro portal electrónico: [www.jrtpr.pr.gov](http://www.jrtpr.pr.gov); o llamando al 787-722-8606 o 787-756-0804 ext. 3012.

En San Juan, Puerto Rico, hoy 26 de marzo de 2012.

  
Sandra E. Torres López  
Presidenta

  
Gloria J. Montes Gilormini  
Secretaria

Autorizado por la Comisión Estatal de Elecciones: CEE-SA-12-\_\_\_\_\_.

# **Attachment B**

**COMMONWEALTH OF PUERTO RICO  
TELECOMMUNICATIONS REGULATION BOARD  
OF PUERTO RICO**

**IN RE:**

**FONDO DE SERVICIO UNIVERSAL  
LIFELINE/LINK UP**

CASE NO.: JRT-2001-SU-0003

RECEIVED  
REC'D 12/20/11

The instant Resolution and Order reiterates the obligation of eligible telecommunication companies (ETC) of strictly complying with the requirements of the reports imposed under Regulation Number 8093, Provisional Amendments to the Regulations on Universal Service (Regulation 8093), and imposes fines for the non compliance of these requirements.

**Background**

As is well known by all the ETCs, this Board has issued several orders, related to the Lifeline program in Puerto Rico, in such a way that we can comply with our duty to oversee the resources that arise from the Universal Service Fund of Puerto Rico<sup>1</sup>. The afore mentioned to tend to the problem of duplicate and triplicate<sup>2</sup> beneficiaries.

The abovementioned situation is so grave that it moved the Governor of Puerto Rico, the Honorable Luis G. Fortuño Buset, to certify a state of emergency in the Lifeline program, on October 20, 2011, so that the Provisional Amendments to the Regulations on Universal Service had an immediate application under Section 2.13 of the Uniform Administrative Procedure, 3 L.P.R.A. § 2133<sup>3</sup>.

<sup>1</sup> Through Act No. 213 of September 12, 1996, as amended, 27 L.P.R.A. § 265 et seq (Act 213), the Telecommunications Regulation Board of Puerto Rico (Board) was created and it expressly is in charge, regarding universal service: 1) recognize telecommunications service as one whose service follows the highest public interest, within a competitive market; 2) ensuring that universal service is provided at a fair, reasonable, accessible cost for all citizens; 3) distribute equally among all telecommunication companies the obligations, responsibilities, and burden assigned to the development and conservation of universal service; 4) establish specific support mechanisms, predictable and sufficient to conserve and develop universal service; 5) provide access to telecommunication service, reasonably compared to the ones provided in urban areas, to consumers in all the Island, including those with low income and those who reside in rural areas or in areas in which access to such services is costly, verifying that those services are available in all of Puerto Rico, at a fair and reasonable price, 27 L.P.R.A. § 265.

<sup>2</sup> When looking at the information in detail, we noticed that in some instances, two or three benefits have been registered under one same address or one same social security number. This irregularity in rendering services and obtaining of subsidy, is called duplicate and/or triplicate and, ultimately, what is reflected is that illegible people are benefiting, through fraud and possibly negligence of the telecommunication companies, whom have provided eligibility to people against the Law and applicable regulations.

<sup>3</sup> Several ETCs had appeared to the Court of Appeals (in cases; KLRA 2011-0776; KLRA 2011-0780; KLRA 2011-0900; KLRA 2011-0905; KLRA 2011-0906; KLRA 2011-01104; KLRA 2011-01107; KLRA 2011-01111; KLRA 2011-01113, and KLRA 2011-01118) to challenge the validity of the two (2) Resolutions and Orders of the Board.

The second Resolution and Order from January 27, 2011, began some overseeing and audit proceedings for all the ETCs, as provided in Section 14.1(c) of Regulation 77956 to verify the compliance with the application of the



The ETCs continue in non compliance with their obligation to file and/or file reports in the form and manner ordered. We reiterate that Section 14.10 of the Provisional Amendments to the Regulations on Universal Service, states:

#### 14.10 Lifeline Service Reports

a) The designated ETC companies must maintain the Board informed on the number of subscribed users of the Lifeline service, which they will do pursuant to the Administrative Orders that this Board, from time to time issues, in which the Board will identify the content of the information to be submitted, its time frame, and any other detail the Board deems relevant.

Provisionally, unless the Board through an Administrative Order modifies it, the data requirement will be:

- The list of beneficiaries of the program will be presented to the Board, using any of the following electronic methods: CD or DVD.
- The list will contain the information in a text format, tab delimited and ANSI encoding.
- The name of the file will be comprised of the following data:
  1. number of ETC of the Board in #### format; followed by
  2. period of the data in yyyy-mm (year and month) format; followed by
  3. version in ## format; followed by
  4. extension ".txt"

Example:001520110901.txt

- When two companies or operations share the same ETC number, the Board will assign a symbol to differentiate the information contained.
- The order and name in the information fields within the file will without exception, the following:

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initial eligibility requirements, the subsequent annual verification of the beneficiaries of the Lifeline and Link-Up programs, and the practices of withholding documents.

The second Resolution and Order from July 13, 2011 cemented the already existing rules, through our Regulation 7795 and other orders of this Board, and adopted other measures that achieved the stability of the Universal Service Fund. Among the measures adopted, there was the creation of a centralized data base, to be managed by the Board with the information supplied by the ETCs and the requirements on reports, its content, format, and the date of delivery, designed to minimize and solve the alarming incidence of duplicates of beneficiaries, that goes against the stability of the public Fund.

On December 16, 2011, the Honorable Court of Appeals, issued a judgment, in which it dismissed all the appeals for administrative review filed by the ETCs, because it understood they were moot, in light of the emergency certification issued by the Governor and it stated that Regulation 8093 would apply immediately, under Section 2.13 of the UAP, 3 L.P.R.A. § 2133.





Field	Size	Type
Social Security	9	Char
Name	Until 15	Char
First Last Name	Until 15	Char
Second Last Name	Until 15	Char
Address 1	Until 70	Char
Address 2	Until 70	Char
City/Town	Until 20	Char
Zip Code	9 (no dash)	Char
Subscription date	8 (Year/Month/ Day) YYYYMMDD	Char
Control Code	9	Char

The fields of "Address 1", "Address 2", "City/Town" and "Zip Code" will be exclusively the physical address of the beneficiary.

b) It is advised that the Board will only accept one CD or DVD per company or operation. Likewise, it is advised that the Board will proceed to return the CD or DVD that is not in compliance with the previously required.

c) In addition, the ETCs will submit an annual report, no later than March 31 of each year, identifying the total number of clients subscribed to the Lifeline program, in the prior natural year.

d) The Board will reject any registration that is incomplete, incorrect or that does not comply with the requirements of format previously stated, to achieve the reliability of the information that populate the uniform database of the Board.

e) The Board will identify that information of a beneficiary that is incomplete, incorrect or that does not comply with the format requirements previously stated, and will notify the respective ETC so it can obtain it, in a term that will not exceed the thirty (30) days, beginning on said notification. If the lack of information is not cured within said term, the benefit for said client will be immediately terminated.

Notwithstanding the above mentioned, Puerto Rico Telephone Company, Inc. (PRT), and its wireless operation, Claro, Tracfone Wireless, Inc. (Tracfone) and AT&T Mobility Puerto Rico, Inc. (AT&T) submitted its CDs with corrections on December 2011 with incomplete and incorrect data, once again. PR Wireless, Inc. aka Open Mobile (Open Mobile) presented its corrections CD of the same period, late and incomplete. Sprint Com, Inc. aka Sprint PCS simply did not present its corrections.



## Discussion

Section 13 of the Regulations on Universal Service, Regulation Number 7795 (Regulation 7795) and our Orders from January 27, July 13, 2011, and January 24, 2012 notified without a doubt that the non compliance with the obligations of filing and/or filing correctly and completely **would entail administrative sanctions**, pursuant to Section 1 c) of Regulation 7795, among with were, without it being understood as a limitation: (i) revocation of the certification to provide telecommunications services in Puerto Rico; (ii) revocation of the designation of eligibility; e (iii) imposing of daily fines until twenty five thousand dollars per violation, as provided in Article II-7 of Act 213 from September 12, 1996, as amended, 27 L.P.R.A. § 267f(b)(1)<sup>4</sup>

The ETCs explicitly were advised that we would reject **any incomplete or incorrect data, related to the information of a beneficiary and that any incomplete, deficient, or untimely filing would result in the impossibility of recovering from the Universal Service Fund.**

However, and advising that ultimately the beneficiaries could be affected for whom the Lifeline program was established, we provided the option to PRTC/Claro, Tracfone, and AT&T, the ETCs that filed data on time but incomplete, if accepting an administrative sanction and having a grace period that would expire on **Monday, April 30, 2012** to submit the corrections.

The administrative sanctions, proportional; to the number of affected beneficiaries, are listed in the following manner:

- PRTC/Claro- \$42,000
- Tracfone- \$35,000
- AT&T- \$200

Regarding Open Mobile, who submitted its corrections late and incomplete, it is granted until **Monday, April 30, 2012** to provide the information missing, as expressed in its procedural letter. The acceptance of this grace period entails the payment of an administrative sanction of \$12,000, proportional to the number of beneficiaries affected. We advised Open Mobile that not exercising its option of the grace period necessarily would entail the **loss of the right to recover the reimbursement of the Universal Service Fund, related to the total of registrations notified by the Board, for the month of December 2011, due to the untimely presentation of the data.**

Sprint will not have a right to the reimbursement of those incomplete registrations of December 2011 notified by this Board, because it simply did not present any information.

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<sup>4</sup> Section 13 Sanctions, part b) states:

Among the actions that could entail sanctions, without it being understood as a limitation, are the following: (i) not complying with the payment of the tax to the Universal Service Fund; (ii) falsification of the documents or providing false information when requesting the designation of eligibility or submitting the relevant information to the contribution sum to the Universal Service Fund; (iii) not providing information required by the Board or the Administrator related to the current Regulations; (iv) **late filing or incomplete reports or any other information expressly required** and (v) committing fraud against the Universal Service Fund and (vi) recover contributions in excess of what is paid or recover of delinquency charges.

See also Act No. 242 from October 9, 2002 and Act No. 202 from December 14, 2007.



The ETCs will have until **Monday, April 9, 2012** to notify its decision of taking the grace period. It will be understood that an ETC is not interested in exercising its option, if we do not receive the notification within this term. The ETC that opts not to take said term, **will loose the right to recover the reimbursement from the Universal Service Fund, related to these registrations.** An exception of the aforementioned, Open Mobile who **will loose the totality of the registrations notified by the Board as of December 2011.**

We again state that the ETCs must timely and correctly file, and that we will not think twice in revoking the designation of a company as eligible to receive money from the Universal Service Fund, or in de-certifying it to provide telecommunications services in Puerto Rico, if it stubbornly determines to continue in non compliance with the reports requirements.

#### **Order**

Pursuant to the broad primary jurisdiction on all telecommunication services, over all persons that provide these services within the Commonwealth of Puerto Rico and over all persons with a direct or indirect interest in said services or companies, this Board RESOLVES AND ORDERS:

**IT IS HEREBY ORDERED** the ETCs notify their decisions on taking on the grace period to submit the corrections corresponding to December 2011, in or before Monday April 9, 2012. It will be understood that an ETC is not interested in exercising its option, if we do not receive the notification within this term. If the ETC opts not to take on said term, it will loose the right to recover the reimbursement from the Universal Service Fund, related to these registrations. An exception from the aforementioned is Open Mobile who will loose the totality of the registrations notified by the Board as of December 2011.

In case this option is accepted, the ETCs will pay the following administrative sanction: PRTC/Claro- forty-two thousand dollars (\$42,000); Tracfone- thirty-five thousand dollars (\$35,000); AT&T- Two hundred dollars (\$200); and Open Mobile- twelve thousand dollars (\$12,000).

**IT IS HEREBY ORDERED** that all eligible telecommunication companies must faithfully comply with Regulation 8093. The non compliance with any of the provisions will entail administrative sanctions, as provided in Section 13 of Regulation 7795. In addition, eligible telecommunication companies can expose themselves to default, pursuant to what is provided in 27 L.P.R.A. (b)(6).

Provided that any party affected by this decision can file a request for reconsideration in the Clerk of the Telecommunications Regulation Board, within the first twenty (20) days beginning on the filing in the record of the notification of this Order. The petitioner must sent a copy of said document, by mail, to the parties that have intervened in the proceedings.

The Telecommunications Regulation Board of Puerto Rico, within fifteen (15) days of having been filed said motion for reconsideration must consider it. If it rejects it on the outset or does not act within fifteen (15) days, the term of thirty (30) days to request a judicial review will be begin to run again form the time said rejection is notified or from the moment the fifteen (15) days



expire, as the case may be. If any determination is made in its consideration, the term to request a review will begin, from the date a copy of the notification of the resolution of the Board definitely ruling on the motion is filed in the record. The prior resolution must be issued and filed in the record, within ninety (90) days after the filing of the motion for reconsideration. If the Board does not take any action regarding the motion for reconsideration, within the ninety (90) days of having been filed a motion accepted for resolution, it will loose jurisdiction on it and the term to request a review will begin from the expiration of said ninety (90) day term, extension of the term to resolve, for a period that will not exceed thirty (30) additional days.

If they opt not to request a reconsideration, or if it is adverse, the party adversely affected could file a motion for revision before the Federal District Court for the District of Puerto Rico, within (30) days beginning on the date of the filing in the record, of the copy of the notification of the order and final resolution of the Board. The party will notify the filing of the request for revision to the Board, and all the parties, within the term to request said revision. The notification can be made by mail.

**To be NOTIFIED** the instant Resolution and Order to the eligible telecommunication companies: Puerto Rico Telephone Company, Inc. Walter Arroyo, Esq., PO Box 360998, San Juan, PR 00936-0998; T-Mobile Puerto Rico LLC, Liza Rios-Morales, Esq., 654 Muñoz Rivera Ave, Suite 2000, San Juan, PR 00918; SprintCom, Inc. aka Sprint PCS, Miguel J. Rodriguez Marxuach, Esq.; POBox 16636, San Juan, PR 00908-6636; AT&T Mobility Puerto Rico, Inc., Rebecca Guerrios, Esq., PO Box 192830, San Juan, PR 00919-2830; PR Wireless, Inc. aka Open Mobile, Javier Lamoso, Esq. PO Box 71569, San Juan, PR 00936-8669; WorldNet Telecommunications, Inc. Vanessa Santo Domingo Cruz, Esq., PO Box 3365, Guaynabo, PR 00970-3365; Mr. David Bogaty, Centro Internacional de Mercadeo, 90 Rd. 165, Suite 201, Guaynabo, PR 00968-8059; Tracfone Wireless, Inc., Edwin Quiñones, Esq., PO Box 19417, San Juan, PR 00910; Telrite aka Life Wireless, Roberto L. Prats Palerm, Esq., American Airlines Building, 1509 Lopez Landron, 10 Floor, San Juan, PR 00911; Absolute Mobile, Inc., Mr. Christopher Peltier, PO Box 830010, Ocala, FL 34483-0010; TerraCom, Inc., Jessica Hernandez Sierra, Esq., Goldman Antonetti & Cordova, PSC, PO Box 70364, San Juan, PR 00936-8364.

As agreed by the Board on April 2, 2012.



#### CERTIFICATION

I CERTIFY that the instant document is a true and exact copy of the Resolution and Order approved by the Board on April 2, 2012. In addition I CERTIFY that today April 2, 2012, I have issued a copy of the instant Resolution and Order to the parties indicated in the **to be Notified** and I have filed it in its records.

WHEREFORE, I sign the instant document in San Juan, Puerto Rico, today, April 2, 2010.

[signed] Ciorah J. Montes Gilormini

CIORAH J. MONTES GILORMINI

Clerk of the Board



**CERTIFICATE OF TRANSLATION INTO ENGLISH**

I, Carlos Laó Dávila, of legal age, single, resident of San Juan, PR, professional interpreter/translator, certified by the Administrative Office of the United States Courts, do HEREBY CERTIFY that I have personally translated the foregoing document and that it is a true and accurate translation to the best of my knowledge and abilities

In San Juan, Puerto Rico, today, April 9, 2012



Carlos Laó Dávila

ATABEX TRANSLATION SPECIALISTS, Inc  
P.O. Box 195044, San Juan, PR 00919-5044

ESTADO LIBRE ASOCIADO DE PUERTO RICO  
JUNTA REGLAMENTADORA DE TELECOMUNICACIONES  
DE PUERTO RICO

IN RE:

FONDO DE SERVICIO UNIVERSAL  
LIFELINE/ LINK UP

CASO NÚM.: JRT-2001-SU-0003

RECEIVED  
4/4/20

RESOLUCION Y ORDEN

La presente *Resolución y Orden* reitera la obligación de las compañías de telecomunicaciones elegibles (CTEs) de cumplir estrictamente con los requisitos de informes impuestos en el *Reglamento Número 8093, Enmiendas Provisionales al Reglamento sobre Servicio Universal* (Reglamento 8093) e impone multas por el incumplimiento con estos requisitos.

Trasfondo

Como es de conocimiento para todas las CTEs, esta Junta ha emitido diversas órdenes, relacionadas con el programa *Lifeline* en Puerto Rico, de manera que podamos cumplir con nuestra función ministerial de fiscalizar los recursos que salen del *Fondo de Servicio Universal de Puerto Rico*.<sup>1</sup> Lo anterior para atacar el problema de beneficiarios duplicados y triplicados.<sup>2</sup>

La gravedad de la anterior situación es tal que movió al Gobernador de Puerto Rico, Honorable Luis G. Fortuño Burset, a certificar un estado de emergencia en el programa *Lifeline*, el 20 de octubre de 2011, de forma que las *Enmiendas Provisionales al Reglamento sobre Servicio Universal* tuvieran una aplicación inmediata, al amparo de la Sección 2.13 de la *Ley de Procedimiento Administrativo Uniforme*, 3 L.P.R.A. § 2133.<sup>3</sup>

<sup>1</sup> Mediante la Ley Núm. 213 de 12 de septiembre de 1996, según enmendada, 27 L.P.R.A. § 265 et seq (Ley 213), se creó la Junta Reglamentadora de Telecomunicaciones de Puerto Rico (Junta) y expresamente se le encargó, en cuanto a servicio universal: 1) reconocer el servicio de telecomunicaciones como uno cuya prestación persigue un fin de alto interés público, dentro de un mercado competitivo; 2) asegurar que se provea el servicio universal a un costo justo, razonable y asequible para todos los ciudadanos; 3) repartir de forma equitativa entre todas las compañías de telecomunicaciones las obligaciones, responsabilidades y cargas adscritas al desarrollo y preservación del servicio universal; 4) establecer mecanismos de apoyo específicos, predecibles y suficientes para preservar y desarrollar el servicio universal; 5) dar acceso a servicios de telecomunicaciones, razonablemente comparables a los provistos en áreas urbanas, a los consumidores en toda la Isla, incluyendo a los de bajos ingresos y los que residen en áreas rurales o en áreas en que sea costoso el acceso a tales servicios, verificando que estos servicios estén disponibles en todo Puerto Rico, a precios justos y razonables, 27 L.P.R.A. § 265.

<sup>2</sup> Al observar detalladamente la información, nos percatamos que en algunas instancias, dos o tres beneficios han sido registrados bajo una misma dirección o un mismo número de seguro social. Esta irregularidad en la prestación y obtención del subsidio, se le ha denominado como duplicados y/o triplicados y, en última instancia, lo que refleja es que se están beneficiando personas inelegibles, por fraude y por una posible negligencia de las compañías de telecomunicaciones, quienes han provisto elegibilidad a personas en contra de la Ley y la reglamentación aplicable.

<sup>3</sup> Varias CTEs habían comparecido al Tribunal de Apelaciones (en los casos: KLRA 2011-0776; KLRA 2011-0780; KLRA 2011-0900; KLRA 2011- 0905; KLRA 2011- 0906; KLRA 2011-01104; KLRA 2011-01107; KLRA 2011-01111; KLRA. 2011-01113 y KLRA 2011-01118) para impugnar la validez de dos (2) *Resoluciones y Órdenes* de la Junta.

La primera *Resolución y Orden* de 27 de enero de 2011, inició unos procesos de fiscalización y auditoría de todas las CTEs, según lo dispuesto en la Sección 14.1 (c) del Reglamento 7795 para verificar el cumplimiento con la aplicación de los requisitos iniciales de elegibilidad, la posterior verificación anual de los beneficiarios a los programas de *Lifeline* y *Link-Up*, y las prácticas de retención de documentos.

La segunda *Resolución y Orden* de 13 de julio de 2011 concretizó reglas ya existentes, por virtud de nuestro Reglamento 7795 y otras órdenes de esta Junta, y adoptó otras medidas que logren la estabilidad del *Fondo de Servicio Universal* estatal. Entre las medidas adoptadas, estaban la creación de una base de datos centralizada, a ser administrada por la Junta con información suministrada por las CTEs y requisitos sobre informes, su contenido, su formato y la fecha de su entrega, diseñados para ayudar a minimizar y solucionar la alarmante incidencia de duplicados de beneficiarios, que atenta contra la propia estabilidad de este Fondo público.

El 16 de diciembre de 2011, el Honorable Tribunal de Apelaciones emitió una sentencia, en la cual desestimó todos los recursos de revisión administrativa presentados por las CTEs, por entenderlos académicos, a la luz de



Las CTEs siguen incumpliendo con su obligación de radicar y/o radicar los informes de la forma y manera ordenada. Reiteramos que la Sección 14.10 de las *Enmiendas Provisionales al Reglamento sobre Servicio Universal*, dispone:

#### 14.10 Informes del Servicio Lifeline

- a) Las compañías designadas ETC deberán mantener a la Junta informada del número de usuarios suscritos al servicio *Lifeline*, lo que realizarán de conformidad con las *Órdenes Administrativas* que esta Junta, de tiempo en tiempo emita, en las que la Junta identificará el contenido de la información a ser sometida, la periodicidad de la misma, y cualesquiera otros detalles que esta Junta estime pertinente.

Provisionalmente, a menos que la Junta mediante Orden Administrativa los modifique, los requisitos de datos son:

- La lista de beneficiarios del programa se presentará ante la Junta, utilizando cualquiera de los siguientes medios electrónicos: CD o DVD.
- La lista contendrá la información en formato de texto delimitado por "tabs" ("tab delimited") y "encoding" ANSI
- El nombre del archivo estará compuesto de los siguientes datos:
  1. número de ETC de la Junta en formato ####;
  - seguido de
  2. periodo de los datos en formato yyyy-mm (año y mes); seguido de
  3. versión en formato ##; seguido de
  4. la extensión ".txt"

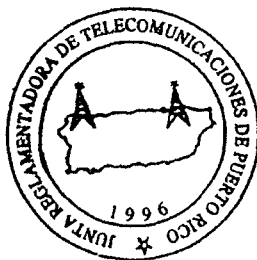
Ejemplo: 001520110901.txt

- Cuando dos compañías u operaciones compartan un mismo número de ETC, la Junta asignará un distintivo para diferenciar la información contenida.
- El orden y el nombre de los campos de la información dentro del archivo será sin excepción el siguiente:

<i>Campo</i>	<i>Tamaño</i>	<i>Tipo</i>
<i>Seguro Social</i>	9	<i>Char</i>
<i>Nombre</i>	<i>Hasta 15</i>	<i>Char</i>
<i>Primer Apellido</i>	<i>Hasta 15</i>	<i>Char</i>
<i>Segundo Apellido</i>	<i>Hasta 15</i>	<i>Char</i>
<i>Direccion 1</i>	<i>Hasta 70</i>	<i>Char</i>
<i>Direccion 2</i>	<i>Hasta 70</i>	<i>Char</i>
<i>Ciudad/Pueblo</i>	<i>Hasta 20</i>	<i>Char</i>
<i>ZipCode</i>	9 (sin guión)	<i>Char</i>
<i>Fecha de Suscripcion</i>	8 (Año/Mes/Día) YYYYMMDD	<i>Char</i>
<i>CodigoControl</i>	9	<i>Char</i>

Los campos "*Direccion 1*", "*Direccion 2*", "*Ciudad/Pueblo*" y "*ZipCode*" serán exclusivamente la dirección física del beneficiario.





- b) Se advierte que la Junta sólo aceptará un CD o DVD por cada compañía u operación. Asimismo, advertimos que la Junta procederá a devolver el CD o DVD si no se conforma a lo antes requerido.
- c) Además, las ETCs someterán un informe anual, no más tarde del 31 de marzo de cada año, identificando el número total de clientes suscritos al Programa *Lifeline*, en el año natural anterior.
- d) La Junta rechazará todo aquel registro que esté incompleto, incorrecto o que no cumpla con los requerimientos de formato antes establecidos, para lograr la confiabilidad de la información que poblará la base de datos uniforme de la Junta.
- e) La Junta identificará aquella información de un beneficiario que esté incompleta, incorrecta o que no cumpla con los requerimientos de formato antes establecidos, y se lo notificará a la respectiva ETC para que la misma sea obtenida, en un plazo que no excederá de treinta (30) días, a partir de dicha notificación. De la falta de información no ser subsanada dentro de dicho término, el beneficio por dicho cliente será terminado inmediatamente.

No obstante lo antes enfatizado, *Puerto Rico Telephone Company, Inc.* (PRT), y su operación inalámbrica *Claro*, *Tracfone Wireless, Inc.* (Tracfone) y *AT&T Mobility Puerto Rico, Inc.* (AT&T) sometieron sus CDs de correcciones para el mes de diciembre 2011 con datos incompletos e incorrectos, nuevamente. *PR Wireless, Inc. h/w/c Open Mobile* (Open Mobile) presentó su CD de correcciones del mismo periodo, de forma tardía e incompleta. *SprintCom, Inc. h/w/c Sprint PCS* simplemente no presentó sus correcciones.

#### Discusión

La Sección 13 del *Reglamento sobre Servicio Universal, Reglamento Número 7795* (Reglamento 7795) y nuestras *Órdenes* de 27 de enero, 13 de julio de 2011 y 24 de enero de 2012 notificaban indubitablemente que el incumplimiento con las obligaciones de radicar y/o radicar correcta y completamente conllevaría sanciones administrativas, de conformidad con la Sección 13 c) del *Reglamento 7795*, entre las cuales están, sin que se entienda como una limitación: (i) revocación de la certificación para prestar servicios de telecomunicaciones en Puerto Rico; (ii) revocación de la designación de elegibilidad; e (iii) imposición de multas y penalidades diarias de hasta veinticinco mil dólares por violación, según dispuesto en el Artículo II-7 de la Ley Núm. 213 de 12 de septiembre de 1996, según enmendada, 27 L.P.R.A. § 267f(b)(1).<sup>4</sup>

Explicitamente las CTEs fueron advertidas que rechazaríamos todo aquel dato incompleto o incorrecto, asociado a la información de un beneficiario, desembocando en que cualquier radicación incompleta, deficiente o en destiempo resultaría en la imposibilidad del recobro del Fondo de Servicio Universal.

Sin embargo, y advirtiendo que en última instancia se podrán terminar por afectar los beneficiarios para quienes fue instaurado el programa *Lifeline*, le brindamos la opción a *PRTC/Claro*, *Tracfone* y *AT&T*, las CTEs que presentaron sus datos a tiempo pero incompletos, de acogerse a una sanción administrativa y tener un plazo de gracia que vencerá el lunes 30 de abril de 2012 para someter las correcciones.

<sup>4</sup> La Sección 13 Sanciones, inciso b) dispone:

Entre las acciones que pueden conllevar sanciones, sin que se entienda como una limitación, se encuentran las siguientes: (i) incumplir con el pago de la contribución al Fondo de Servicio Universal; (ii) falsificación de los documentos o suministrar información falsa al solicitar la designación de elegibilidad o al someter la información relativa al monto de la aportación al Fondo del Servicio Universal; (iii) no suministrar información requerida por la Junta o el Administrador relacionada al presente Reglamento; (iv) radicación tardía o incompleta de informes y otra información expresamente requerida y (v) cometer fraude contra el Fondo de Servicio Universal y (vi) recobro de aportaciones en exceso de lo pagado o recobro de cargos por mora.

Véase también la Ley Núm. 242 de 9 de octubre de 2002 y la Ley Núm. 202 de 14 de diciembre de 2007.



Las sanciones administrativas, proporcionales al número de beneficiarios afectados, se desglosan de la siguiente manera:

- PRTC/ Claro - \$42,000
- Tracfone- \$35,000
- AT&T - \$200

En cuanto a *Open Mobile*, quien sometió sus correcciones tardía e incompletamente, se le concede hasta el lunes 30 de abril de 2012 para proveer la información que falta, según expresado en su propia carta trámite. La aceptación de este período de gracia conlleva el pago de una sanción administrativa de \$12,000, proporcional al número de beneficiarios afectados. Advertimos a *Open Mobile* que el no ejercer su opción de acogerse al período de gracia necesariamente conllevará la pérdida del derecho a recobrar el reembolso del Fondo de Servicio Universal, asociado al total de los registros notificados por la Junta, para el mes de diciembre de 2011, debido a la presentación a destiempo de la data.

*Sprint* no tendrá derecho al reembolso de aquellos registros incompletos del mes de diciembre del 2011 notificados por esta Junta, porque simplemente no presentó ninguna información.

La CTEs tendrá hasta el lunes 9 de abril de 2012 para notificar su decisión de acogerse al período de gracia. Se entenderá que una CTE no interesa ejercer su opción, si no recibimos la notificación dentro de este plazo. De la CTE optar por no acogerse al referido plazo, perderá el derecho a recobrar el reembolso del Fondo de Servicio Universal, asociado a estos registros. Se exceptúa de lo antes expresado, *Open Mobile* quien perderá la totalidad de los registros notificados por la Junta para el mes de diciembre de 2011.

Volvemos a dar constancia que las CTEs deben radicar oportuna y correctamente, y que no vacilaremos en revocar la designación de una compañía como elegible para recibir dinero del *Fondo de Servicio Universal* ni en de-certificarla para prestar servicios de telecomunicaciones en Puerto Rico, si obstinadamente determina seguir incumpliendo con los requisitos de informes.

#### Orden

A tenor con la amplia jurisdicción primaria sobre todos los servicios de telecomunicaciones, sobre todas las personas que rindan estos servicios dentro del Estado Libre Asociado de Puerto Rico y sobre toda persona con un interés directo o indirecto en dichos servicios o compañías, esta Junta RESUELVE Y ORDENA:

*SE ORDENA a las CTEs notificar su decisión de acogerse al período de gracia para someter las correcciones correspondientes al mes de diciembre de 2011, en o antes del lunes 9 de abril de 2012. Se entenderá que una CTE no interesa ejercer su opción, si no recibimos la notificación dentro de este plazo. De la CTE optar por no acogerse al referido plazo, perderá el derecho a recobrar el reembolso del Fondo de Servicio Universal, asociado a estos registros. Se exceptúa de lo antes expresado, Open Mobile quien perderá la totalidad de los registros notificados por la Junta para el mes de diciembre de 2011.*

*En caso de acogerse a esta opción, las CTEs pagarán la siguiente sanción administrativa: PRTC/Claro – cuarenta y dos mil dólares (\$42,000); Tracfone - treinta y cinco mil dólares (\$35,000); AT&T – doscientos dólares (\$200); y Open Mobile – doce mil dólares (\$12,000).*

*SE ORDENA a todas las compañías de telecomunicaciones elegibles a cumplir fielmente con el*



**Reglamento 8093. El incumplimiento con cualquiera de sus disposiciones conllevará sanciones administrativas, según dispuestas en la Sección 13 del Reglamento 7795. Además, las compañías de telecomunicaciones elegibles pueden exponerse a un desacato, de conformidad con lo dispuesto en 27 L.P.R.A. § 267f(b)(6).**


Disponiéndose que cualquier parte afectada por esta decisión podrá formular y radicar una solicitud de reconsideración en la Secretaría de esta Junta Reglamentadora de Telecomunicaciones, dentro de los primeros veinte (20) días contados a partir del archivo en autos de la notificación de esta Orden. El solicitante deberá enviar copia de tal escrito, por correo, a las partes que hayan intervenido en los procedimientos.

La Junta Reglamentadora de Telecomunicaciones de Puerto Rico, dentro de los quince (15) días de haberse presentado dicha moción de reconsideración deberá considerarla. Si la rechazare de plano o no actuare dentro de los quince (15) días, el término de treinta (30) días para solicitar revisión judicial comenzará a correr nuevamente desde que se notifique dicha denegatoria o desde que expiren esos quince (15) días, según sea el caso. Si se tomare alguna determinación en su consideración, el término para solicitar revisión empezará a contarse, desde la fecha en que se archiva en autos una copia de la notificación de la resolución de la Junta resolviendo definitivamente la moción. La anterior resolución deberá ser emitida y archivada en autos, dentro de los noventa (90) días siguientes a la radicación de la moción de reconsideración. Si la Junta dejare de tomar alguna acción con relación a la moción de reconsideración, dentro de los noventa (90) días de haber sido radicada una moción acogida para resolución, perderá jurisdicción sobre la misma y el término para solicitar la revisión empezará a contarse, a partir de la expiración de dicho término de noventa (90) días, salvo que la agencia, por justa causa y dentro de esos noventa (90) días, prorrogue el término para resolver, por un período que no excederá de treinta (30) días adicionales.

Si optara por no solicitar la reconsideración, o si la misma le es adversa, la parte adversamente afectada podrá presentar una solicitud de revisión ante la Corte de Distrito Federal para el Distrito de Puerto Rico, dentro de (30) días contados a partir de la fecha de archivo en autos, de la copia de la notificación de la orden o resolución final de la Junta. La parte notificará la presentación de la solicitud de revisión a la Junta, y a todas las partes, dentro del término para solicitar dicha revisión. La notificación podrá hacerse por correo.

**NOTIFÍQUESE** la presente Resolución y Orden a las compañías de telecomunicaciones elegibles: Puerto Rico Telephone Company, Inc., Lcdo. Walter Arroyo, PO Box 360998, San Juan, PR 00936-0998; T-Mobile Puerto Rico LLC, Lcda. Liza Ríos-Morales, 654 Ave. Muñoz Rivera, Suite 2000, San Juan, PR 00918; SprintCom, Inc. h/n/c Sprint PCS, Lcdo. Miguel J. Rodríguez Marxuach; PO Box 16636, San Juan, PR 00908-6636; AT&T Mobility Puerto Rico, Inc., Lcda. Rebecca Guerríos, PO Box 192830, San Juan, PR 00919-2830; PR Wireless, Inc. h/n/c Open Mobile, Lcdo. Javier Lamoso, PO Box 71569, San Juan, PR 00936-8669; WorldNet Telecommunications, Inc., Lcda. Vanessa Santo Domingo Cruz, PO Box 3365, Guaynabo, PR 00970-3365; Sr. David Bogaty, Centro Internacional de Mercadeo, 90 Carretera 165, Suite 201, Guaynabo, PR 00968-8059; Tracfone Wireless, Inc., Lcdo. Edwin Quiñones, PO Box 19417, San Juan, PR 00910; Telrite h/n/c Life Wireless, Lcdo. Roberto L. Prats Palerm, American Airlines Building, 1509 López Landrón, 10 Floor, San Juan, PR 00911; Absolute Mobile, Inc., Sr. Christopher Peltier, PO Box 830010, Ocala, FL 34483-0010; TerraCom, Inc., Lcda. Jessica Hernández Sierra, Goldman Antonetti & Córdova, PSC, PO Box 70364, San Juan, PR 00936-8364.

Así lo acordó la Junta el 2 de abril de 2012.

  
Gloria I. Escudero Morales  
Miembro Asociado

  
Sandra Torres López  
Presidenta

Excusada  
Nixyvette Santini Hernández  
Miembro Asociado

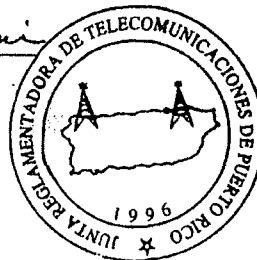


### CERTIFICACIÓN

CERTIFICO que la presente es copia fiel y exacta de la Resolución y Orden aprobada por la Junta, 2 de abril de 2012. CERTIFICO, además, que hoy 2 de abril de 2012, he remitido copia de la presente Resolución y Orden a las partes indicadas en el Notifíquese y he procedido al archivo en autos de la misma.

Y PARA QUE ASÍ CONSTE, firmo la presente en San Juan, Puerto Rico, hoy 2 de abril de 2012.

  
CJORAH J. MONTES GILORMINI  
Secretaria de la Junta



## CERTIFICATE OF SERVICE

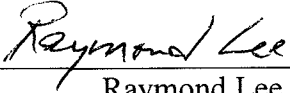
I, Raymond Lee, a Legal Secretary with the law firm of Greenberg Traurig, LLP, hereby certify that on April 10, 2012, a true and correct copy of the foregoing Request for Clarification and Declaratory Relief of TracFone Wireless, Inc. was sent via electronic mail and overnight delivery to the following unless stated otherwise:

Sandra E. Torres-Lopez  
President  
Puerto Rico Telecommunications Regulatory Board  
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San Juan, PR 00907-3981  
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\_\_\_\_\_  
Raymond Lee